

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

| | | |
|---------------------------------|---|---------------------|
| RAHNEISHA DUNCAN | : | CIVIL ACTION |
| Plaintiff, | : | |
| | : | NO. 12-2117 |
| v. | : | |
| | : | |
| CITY OF CHESTER, et al., | : | |
| Defendants. | : | |
| | : | |

ORDER

AND NOW, this _____ day of _____, 2013, it is hereby ORDERED that the
above captioned matter is hereby stayed for a period of time of sixty (60) days.

Tucker, J.

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

| | | |
|---------------------------------|---|---------------------|
| RAHNEISHA DUNCAN | : | CIVIL ACTION |
| Plaintiff, | : | |
| | : | NO. 12-2117 |
| v. | : | |
| | : | |
| CITY OF CHESTER, et al., | : | |
| Defendants. | : | |
| | : | |

ORDER

AND NOW, this _____ day of _____, 2013, it is hereby ORDERED that counsel, Brian J. Zeiger , Esquire and Gabriel Z. Levin, Esquire are hereby REMOVED and WITHDRAWN as counsel in the above captioned matter.

Tucker, J.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

| | | |
|--------------------------|---|--------------|
| RAHNEISHA DUNCAN | : | CIVIL ACTION |
| Plaintiff, | : | |
| | : | NO. 12-2117 |
| v. | : | |
| | : | |
| CITY OF CHESTER, et al., | : | |
| Defendants. | : | |
| | : | |

MOTION TO WITHDRAW

Counsel for Plaintiff moves to withdraw their appearance and in support thereof avers the following:

1. The law firm of Levin & Zeiger LLP agreed to represent the Estate of Daniel Simms in pursuing a civil rights matter against the City of Chester, et al., as a result of a meeting with the family of the decedent. Both counsel of record, Brian J. Zeiger, Esquire and Gabriel Z. Levin, Esquire, were present at the initial meeting.
2. During the initial meeting, both counsel interviewed and questioned the family of the decedent about the facts and circumstances of the event .
3. The family of the decedent clearly articulated to counsel the decedent did **not** have a gun in his possession at the time of the incident.
4. At the time counsel agreed to prosecute the instant matter, counsel agreed to do so based on a factual theory that the decedent was unarmed at the time he was shot dead by the Defendant.
5. Further counsel was told by the family that Raneisha Duncan was the executrix of the Estate of Daniel Simms.

6. Counsel filed the instant action before Your Honor.
7. Through discovery, counsel has learned the decedent possessed a loaded fully functional firearm at the time of the incident that lead to his death in the instant action.
8. The decedent's possession of the firearm can be confirmed by eyewitness testimony and forensic evidence.
9. Further, counsel learned that Raneisha Duncan is not the executrix of the Estate of Daniel Simms, instead, Sadie Simms is the executrix of the Estate of Daniel Simms.
10. As a result of the discovery that the decedent possessed a loaded firearm, the legal merits of the case have changed.
11. The law firm of Levin & Zeiger LLP would not have agreed to represent the Plaintiff if the decedents family told them decedent possessed a firearm.
12. Levin & Zeiger have explained all of the above to the client.
13. The client consents to the withdraw of Levin & Zeiger LLP as counsel in the instant matter.
14. Attached hereto as "Exhibit A" is the signed letter of consent by the client.

15. Counsel would respectfully request the matter stayed for 60 days for the client to find new counsel.

Accordingly, counsel would request this Court enter the proposed Orders.

Respectfully Submitted

BY: 

Levin & Zeiger, LLP

BY: BRIAN J. ZEIGER

IDENTIFICATION NO.: 87063

123 S. BROAD STREET, SUITE 1200

PHILADELPHIA, PENNSYLVANIA 19109

215.825.5183

zeiger@levinzeiger.com

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

| | | |
|---------------------------------|---|---------------------|
| RAHNEISHA DUNCAN | : | CIVIL ACTION |
| Plaintiff, | : | |
| | : | NO. 12-2117 |
| v. | : | |
| | : | |
| CITY OF CHESTER, et al., | : | |
| Defendants. | : | |
| | : | |

CERTIFICATE OF SERVICE

The following parties have been served with the foregoing document first class mail from United States Postal Service today, and have been served through this Court's electronic filing service:

Suzanne McDonough, Esquire
Holsten & Associates
1 S Olive St
Media, PA 19063

BY: 

Levin & Zeiger, LLP
BY: BRIAN J. ZEIGER
IDENTIFICATION NO.: 87063
123 S. BROAD STREET, SUITE 1200
PHILADELPHIA, PENNSYLVANIA 19109
215.825.5183
zeiger@levinzeiger.com

EXHIBIT A

LEVIN & ZEIGER LLP

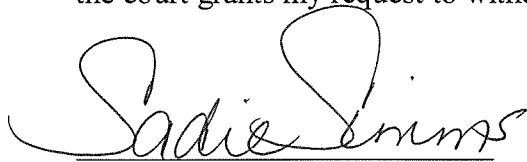
ATTORNEYS AT LAW

123 S. BROAD ST.
SUITE 1200
PHILADELPHIA, PA 19109
215.825.5183
215.279.8702 FAX

Dear Ms. Simms,

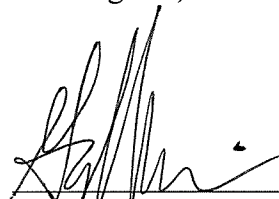
This will confirm the contents of our consultation on this date wherein I explained to you that recent evidence provided by the defendants in the lawsuit has disclosed that a gun was found in proximity to your son with his DNA on it. As I explained to you these circumstances lead me to believe that a jury would likely conclude that your son was armed at or around the time of the incident.

As you are aware when we accepted this case it was based upon the facts as presented to us by you at that time. One of your allegations was that your son was not armed and did not have a gun on the date in question. Had we know of this fact at the time, it would have materially changed our decision to accept and litigate the case. Unfortunately, as I explained to you today, based upon this evidence, I have concluded that the issue concerning the gun will complicate and present material legal and factual difficulties with regards to your son's litigation. Accordingly, as I advised you today, our law firm has made the difficult decision that we will be unable to pursue the case any further and will seek permission to withdraw our appearance from the court. As I advised this can be done in one of two ways. If you consent to our withdraw I will ask you to sign on the space below indicating your consent and will then file this letter with the court in a request to withdraw. If you do not consent please sign in the space below indicating you do not consent, and I will provide this letter to the court, who will give you an opportunity to be heard concerning any objections you have to my withdraw as your lawyer. Either way I will ask the court to provide you additional time to retain a new lawyer in the event the court grants my request to withdraw.



I consent to withdraw of law firm

Kind regards,



Gabriel Levin, Esquire

I do not consent to withdraw of law firm

3/4/13
Date